Federal Court Cour fédérale

Date: 20210224

Docket: T-603-20

Citation: 2021 FC 178

Ottawa, Ontario, February 24, 2021

PRESENT: Mr. Justice Pentney

BETWEEN:

KRISTEN GREEN and
KYLE GREEN

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicants, Kristen Green and Kyle Green, are a married couple who are both members of the Royal Canadian Mounted Police (RCMP). By virtue of the terms of their employment, the Applicants are subject to being posted to different detachments during the course of their careers. This case involves the financial consequences of one such move.

I. Background

[2] In 2011, the Applicants were transferred to the RCMP's Wood Buffalo Detachment located in Fort McMurray, Alberta. They purchased a home there for $504,500. In 2016, the Applicants were transferred to Sherwood Park, Alberta. They moved to that location in January 2017, and sold their Fort McMurray home in August 2017. However, during their time in Fort McMurray the real estate market had declined in a dramatic fashion due to a number of factors. As a consequence, the sale price for the Applicants' home was $370,000 and they lost $134,500, or approximately 27% of its original value.

[3] The RCMP has recognized the impact of its policy of deploying members to different locations during their careers by adopting the Integrated Relocation Program (IRP). The IRP was amended in 2017, but it is not disputed that the Applicants fall within the terms of the 2009 version. Technically, the IRP 2009 was a policy adopted by the Treasury Board of Canada (Treasury Board), but in practice, all aspects of the policy were administered by the RCMP, except for one aspect that is relevant to this case.

[4] The IRP 2009 provides a number of different benefits to members related to the sale of their existing home and the purchase of a new one in the area to which they have been deployed. The IRP 2009 provides three envelopes of funding to members: Core, Customized, and Personalized. Members are expected to use the room available from the Core envelope first, and can then claim under one of the other envelopes to cover any shortfall if there are sufficient funds remaining in the other envelopes to cover the various expenses.

[5] The dispute in this case is about the proper interpretation of two particular benefits provided under the IRP 2009 regarding the loss an RCMP member experiences in the disposition of his or her home resulting from a forced relocation: the Home Equity Assistance Program (HEAP), and the Depressed Market Status benefit.

[6] Where a member sells a residence for less than the original purchase price, article 3.09 of the IRP 2009 provides the following "baseline" benefit:

> **3.09. Home Equity Assistance Program (HEAP)**
>
> …
>
> 2. A Member who sells his/her residence for less than the original purchase price (at time of initial posting) may be reimbursed the difference (residence value capped at $300,000)
>
> a) *Core Envelope*
>
> i) 80% of qualifying loss up to $15,000
>
> b) *Customized/Personalized Envelopes*
>
> i) Remaining qualifying loss

[7] It appears that the RCMP became aware that the $300,000 eligibility cap meant that many members were unable to make a claim under HEAP because of the rise in housing prices. Hence, effective April 1, 2017, Treasury Board agreed to remove this limit. In view of the time taken to process the submission associated with this change, this amendment was backdated to April 1, 2016, so that any member who sold their home at a loss after that date was eligible to make a claim regardless of the value of their home.

[8] By virtue of this change, the Applicants were approved for the HEAP benefit, despite having sold their home for $370,000. They had been transferred prior to April 1, 2017, and so

without the retroactive removal of the eligibility cap, they would not have qualified for HEAP benefits.

[9] Article 3.10 of the IRP 2009 provides a separate benefit where a member experiences a more significant loss on the sale of their home due to a general downturn in the local real estate market:

> **3.10. Depressed Market Status**
>
> The Member and the realtor must build a business case for depressed market status (20% or higher decline in the real estate market) approval by submitting the following documentation to the CRSP for furtherance to the DNC/delegate for authorization by the Project Authority at Treasury Board Secretariat.

[10] Under the IRP 2009, if an application for Depressed Market Status is accepted the member is entitled to recover the entire amount lost on the value of the home from the Core envelope, with no cap on the total amount.

[11] The Applicants worked with a realtor in Fort McMurray to prepare the necessary business case in support of their claim for the Depressed Market Status benefit. The business case indicated that housing prices in the area had fallen by approximately 28.7% between 2011 and 2017 due to the economic situation associated with the major industry in the area combined with the impact of the massive wildfire that destroyed many homes in the city. On October 13, 2017, the Applicants submitted their business case to officials within the RCMP. Under the IRP 2009, a determination of whether to recognize Depressed Market Status can only be made by the Treasury Board, and so the RCMP officials forwarded the Applicants’ business case materials to their counterparts at Treasury Board.

[12] For reasons that are not clear in the record, the Applicants were not advised until March 27, 2020, that the Treasury Board had denied their business case for Depressed Market Status in 2019. In any event, the parties agree that the basis for the Treasury Board decision is best captured in a letter from a Treasury Board official to the RCMP's Director of Relocation Services dated September 3, 2019. For the purposes of this matter, this letter is the "decision" that is subject to judicial review.

[13] The essence of the Treasury Board decision to deny the Applicants the benefits under Depressed Market Status is set out in the following passage:

> Article 3.09 of the RCMP Relocation Program Directive 2009 outlines the criteria that must be met to qualify for Home Equity Assistance (HEA). It specifies that homes valued at more than $300,000 are not eligible for HEA. In reviewing the request it was noted that the member's home was valued over this amount and is therefore ineligible for HEA.
>
> When the Treasury Board approved the new RCMP Relocation Directive effective April 1, 2017, it also approved retroactive elimination of the $300,000 cap for RCMP members that sold their homes after April 1, 2016 for the purpose of allowing them to collect HEA to the value in article 3.09 of the 2009 directive. It did not lift the cap for the purposes of article 3.10. I note that the member was reimbursed the full amount allowed under article 3.09.

[14] The Applicants seek judicial review of this decision, arguing that the Treasury Board erred in conflating the HEAP benefits available to members under article 3.09 with the Depressed Market Status benefit provided under article 3.10.

II. Issues and Standard of Review

[15] The only issue in this case is whether the Treasury Board decision denying the Applicants' request for Depressed Market Status benefits pursuant to article 3.10 of the IRP 2009 is reasonable.

[16] The standard of review is reasonableness, as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. Under this framework, "[t]his Court's role is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints" (*Canada Post Corp v Canadian Union of Postal Workers,* 2019 SCC 67 at para 2 [*Canada Post*]).

[17] This focus on reasons is not intended to demand perfection, and the context for decision-making is an important consideration (*Vavilov* at paras 88-90). The analytical framework is intended, however, "to develop and strengthen a culture of justification in administrative decision-making" (*Vavilov* at para 2), by demanding that decision makers provide reasons that explain the reasoning process they followed and show that their analysis conforms to the relevant factual and legal constraints that apply to the decision maker and the issue at hand (*Vavilov* at paras 102-07).

III. Analysis

[18] The core of the Applicants' argument is that the decision is unreasonable because it wrongly conflates two separate benefits by applying the $300,000 eligibility cap that applies to

HEAP under article 3.09 of the IRP 2009 to the Depressed Market Status benefit available under article 3.10.

[19] The starting point for reasonableness review of a decision-maker's reasons under *Vavilov* is whether the reasons demonstrate an internally coherent line of reasoning that justifies the outcome in light of the factual and legal constraints that bear upon the decision-maker (*Canada Post* at para 2). The decision must explain the result to the parties affected by it, and the reasons must be assessed with reference to the context for decision-making. This includes the relevant considerations set out in the governing legal instrument (*e.g.* consideration of any specific factors that are listed); the degree of specialized expertise involved (which may be reflected in the way the decision is expressed); the nature of the discretion being exercised (wide policy decisions involving a host of competing factors and an assessment of what is in "the public interest" versus narrow and specific decision-making focused on assessing specific interests for one or two parties); and the nature and importance of the rights involved in the decision and its impact on the parties affected.

[20] Having considered these elements, for the reasons explained more fully below, I find that the Treasury Board decision is unreasonable. It fails the *Vavilov* test because it does not explain the basis for the essential finding, namely that the financial cap set out in article 3.09 for the HEAP benefit applies to the Depressed Market Status benefit contained in article 3.10. Instead of an explanation supporting its interpretation, the decision simply provides a declaration that this is how the policy is applied. It was clear to the Treasury Board that the Applicants and the responsible officials at the RCMP did not believe that the $300,000 HEAP cap applied to the Distressed Market Status benefit. Instead of explaining why the cap applied, the Treasury Board

decision simply declared it to be so. This does not meet the long-standing test of "justification, transparency and intelligibility" that is confirmed in *Vavilov* (at para 99).

[21] In this case, the relevant "legal constraint" is the terms of the IRP 2009, which set the bounds for the decision. These terms do not refer to any wider "public interest" determination. Accordingly, the decision involved the assessment of the Applicants' claim (the financial consequences of which are acknowledged to be significant), recognizing that the determination of Depressed Market Status may have implications for other RCMP members who sold their homes at a loss in the same period. The question, therefore, is whether the Treasury Board decision explains why it denied the Applicants' claim for Depressed Market Status benefits based on a reasonable interpretation and application of the terms of the IRP 2009.

[22] Under *Vavilov*, one way of assessing the reasonableness of the Treasury Board decision is to consider what is required of an administrative decision maker who is engaged in an interpretive exercise. The reviewing court is not to engage in its own independent analysis, to which it can then compare the decision under review. Rather, the proper approach is to assess whether the decision demonstrates the requisite degree of "justification, transparency and intelligibility" in explaining the basis for its interpretation (*Vavilov* at paras 115-24, see also the discussion in *Mason v Canada (Citizenship and Immigration)*, 2019 FC 1251).

[23] The Applicants submit that the Treasury Board's interpretation is unreasonable. They argue that the relevant articles of the IRP 2009 are akin to a contract of adhesion because the policy was unilaterally adopted by the RCMP and they had no meaningful opportunity to negotiate its terms. Therefore, the Applicants contend that the guidance set out in *Ledcor Construction Ltd v Northbridge Indemnity Insurance Co*, 2016 SCC 37 [*Ledcor Construction*]

should apply. Under this framework, the document must be construed by focusing on the text of the provisions, interpreted in light of: the purpose of the instrument, the nature of the market or industry in which it operates, the need for consistency in interpretation of similar provisions (and the equally compelling need to give effect to differences in wording), and the reasonable expectations of the parties (*Ledcor Construction* at paras 31 and 50). In addition, the Applicants contend that the approach to the interpretation of exclusionary clauses in contracts is applicable here.

[24] I agree with the Respondent that the Court should not simply adopt the approach that applies to contracts of adhesion or exclusionary clauses in assessing the reasonableness of the Treasury Board's interpretation of the IRP 2009. Further, it is not necessary to explore several of the dimensions of the Applicants' argument, because I find that I can reach my conclusion by a simpler route.

[25] Rather than applying principles related to contracts of adhesion, I find that the long-standing approach of interpreting the document by reading the text in light of its context and purpose is appropriate, and it is not necessary to go beyond it in order to reach a conclusion in this case. I note that in several cases involving the interpretation of internal policies applicable to employees of government agencies, this Court has adopted the purposive approach for the interpretation of statutes affirmed by the Supreme Court of Canada in *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27 at paras 21-22 (see *Brauer v Canada (Attorney General)*, 2014 FC 488 at para 63 [*Brauer 2014*]; *Furgiuele v Canada (Revenue Agency)*, 2017 FC 268 at para 44).

[26] In this case, while the Treasury Board was not required to engage in a formalistic statutory interpretation, the merits of its interpretation must nonetheless be consistent with the

text, context, and purpose of the provision in the IRP 2009 (*Vavilov* at paras 119-20). I find that the decision is inadequate because it does not explain the basis for the interpretation that the Depressed Market Status benefit was subject to the financial eligibility requirement established under the HEAP benefit. The decision is not consistent with the text, context, or purpose of the relevant articles.

[27] Starting with the text, it is obvious that article 3.09 sets out the financial eligibility cap of $300,000 for any claim to HEAP benefits. It is equally obvious that article 3.10 does not describe Depressed Market Status as a particular type of HEAP benefit, nor does it incorporate the $300,000 eligibility cap.

[28] As with any exercise involving the interpretation of words in a legal document, it is important to put the key clauses into their proper context. Articles 3.09 and 3.10 form part of section 3 of the IRP 2009 pertaining to the "Sale of Principal Residence", which has a stated purpose of "assist[ing] Members in the sale of a principal residence at the former place of duty when transferred from one place to another" (IRP 2009 at 3.01). Article 3.02 is titled "Funding Overview" and sets out a summary of the benefits relating to the sale of a principal residence with an indication of whether they are funded from the Core, Customized, and Personalized envelopes. In particular, the chart in article 3.02 provides the following in regard to the benefits at issue here:

Benefit	Core Envelope	Customized Envelope	Personalized Envelope	Section Reference
…	…	…	…	…
Home Equity Assistance Program (HEAP)	80% of qualifying loss up to $15,000	Remaining qualifying loss	When all custom funds have been expanded	3.09

Depressed Market Sale	100% of qualifying loss			3.10

[29] On a plain reading of the text of the chart in article 3.02, the HEAP benefit is listed separately from Depressed Market Sale, and there is no cross-referencing of the two. The funding is also different, in that Depressed Market Sale is entirely covered from the Core Envelope.

[30] The distinction between the benefits in the chart is also consistent with the wording of the operative clauses in the document: article 3.09 sets out the terms and conditions for HEAP, and makes no mention of Depressed Market Status as a subset of the benefit. Similarly, article 3.10 on Depressed Market Status sets out the process by which a member may make a claim if the housing market has experienced a decline of at least 20%, but it does not cross-reference article 3.09, and there is no indication on the face of the provision that the $300,000 cap that applies to HEAP also applies to this benefit.

[31] By way of contrast, if the IRP 2009 set out HEAP as the overarching benefit and listed Depressed Market Status as a subset of that benefit, or if article 3.10 was titled “HEAP – Depressed Market Status”, the Treasury Board interpretation would have some textual grounding. As it stands, however, there is nothing in the text of the document to make the connection between the two benefits, nor is there any evidence that this linkage was explained to the RCMP members affected by it. Given the importance of the eligibility cap and the impact of the denial of the benefit to any member who has purchased a home in a market that experiences such a dramatic decline, this is not an insignificant omission.

[32] The Respondent submits that this Court should defer to the expertise of the Treasury Board on the interpretation of its own policy and notes that both HEAP and Depressed Market Status relate to the issue of loss of value (commonly referred to as "equity") when a member is selling their home for less than they paid for it. The Respondent also points out that article 3.10 does not set out any specific benefit-conferring language, but rather launches straight into the process by which a claim must be assembled. The Respondent contends that this is an indication that Depressed Market Status is a subset of HEAP.

[33] There are several problems with the Respondent's approach. First, although the two benefits relate to compensating the member for the loss of value on the sale of their home, there are key differences between them, namely: (i) they address two entirely different situations; (ii) they are funded differently; and (iii) they set out completely different processes. HEAP applies in the more common situation where a member has lost a marginal amount on the sale of their home in the usual way that markets operate. Depressed Market Status sets out a separate process that includes different eligibility requirements (namely, a decline in the real estate market of 20% or higher) and also requires the member and a realtor to assemble a detailed business case to justify the claim based on objective evidence about the drop in the relevant real estate market. It addresses a situation where there has been a dramatic decline in a housing market, which will obviously apply only rarely, but with much more significant and lasting impacts on a member's financial circumstances.

[34] Second, the Respondent's interpretation of the clauses is also inconsistent with their plain wording. For example, clause 3.09.1 provides "[a]ll requests for HEAP must be pre-approved by the DNC/Delegate." If the request for Depressed Market Status was a HEAP benefit subject to

the provisions set out in article 3.09, it is noteworthy that there is no reference to this pre-approval requirement in any of the exchanges in the record between the Treasury Board official and the representatives of the RCMP. It is evident that the RCMP officials who handle relocation benefits for members never indicated that they thought they had to pre-approve the Applicants' request for Depressed Market Status.

[35] Stepping back to view the text in the context of the IRP 2009, and considering the purpose of the benefit overall, it makes sense that these two benefits should be viewed as separate and distinct elements. They address two different problems that can confront a member who is subject to forced relocation. On the one hand, HEAP recognizes that sometimes a member may face a modest loss on the sale of their home through no fault of their own, simply through the normal operations of the housing market. This benefit offers a degree of compensation to a member to offset this loss, subject to the limits set out in the policy.

[36] On the other hand, in some circumstances a member subject to forced relocation may face a devastating personal loss because of the total collapse of a housing market, again through no fault of their own. Under the IRP 2009, in such a circumstance the member is entitled to complete recovery for the qualifying loss from the Core envelope, presumably in recognition of the impact that such a significant loss would have on the financial circumstances of a member.

[37] As noted by Justice Richard Mosley in *Brauer 2014*, a case relating to the denial of Depressed Market Status benefits to a Canadian Armed Forces (CAF) member:

> [67] The transfer to Edmonton and subsequent posting to Halifax were operational decisions made by the CF over which Major Brauer had little or no control. He could refuse the posting only at the peril of his career progression and even then may have been required to move or resign from the Forces. In this regard, the

> choice of a place to live which many other Canadians take for granted was largely at the discretion of his employer. It was reasonable for him to expect that in making the move, he and his family would be protected by the employer's HEA policy. That expectation, as it turned out, was not well-founded. The employer, through its agent, the TBS, expects the family to bear most of the cost of a dramatic down-turn in the market value of their home when they were again posted to a new base. This was clearly not what was intended when the policy was devised by the government. But the effects of its application in this instance on the Brauer family have been devastating.

[38] I agree with the Respondent that the employer's policy at issue in *Brauer 2014* was worded differently than the one in this case. In particular, the CAF policy listed both benefits under the heading "Home Equity Assistance" and did not set out a financial eligibility cap. However, I find that the description of the purpose of the policy to be comparable, given that both RCMP and CAF members are subject to being posted to different locations without their consent by virtue of the terms and conditions of their employment, and both organizations in fact follow a policy of regular rotation of personnel.

[39] Having reviewed the text, context, and purpose of the provisions in question, I can find no basis to support the Treasury Board's interpretation that the $300,000 eligibility cap for HEAP benefits must be applied to deny the Applicants request for the Depressed Market Status benefit.

[40] As indicated earlier, when the decision was made, Treasury Board was aware that the Applicants did not believe the cap applied to exclude them; this is reflected by their efforts to assemble and submit the business case as required by the text of article 3.10. Under the Treasury Board's interpretation, the Applicants were disqualified from the Depressed Market Status benefit since the beginning because they purchased a home worth more than $300,000. There is

no indication anyone ever advised the Applicants of this. The explanation for this may be quite simple; apparently, no RCMP official thought that they were ineligible for Depressed Market Status because of the value of their home. The person who handled the Applicants' relocation did not ever raise this with them and the record makes clear that the RCMP senior officer who was in charge of the relocation program also disagreed with the Treasury Board analysis because he believed that the two benefits were separate.

[41] If *Vavilov* seeks to reinforce a culture of justification by focusing, in part, on the "discipline of reasons" (*Vavilov* at para 80), surely one aspect of this is to require the decision maker to demonstrate that they have considered the position put forward by the party seeking relief, and to explain why the position of the unsuccessful party was not accepted (*Vavilov* at paras 127-28).

[42] The second element in the Treasury Board decision is the assertion that when it decided to retroactively eliminate the $300,000 cap on HEAP benefits, it did so in relation to "baseline" benefits set out in article 3.09, but not for the Depressed Market Status benefit provided under article 3.10.

[43] The Applicants say that the reason for this is simple – the $300,000 limit never applied to the Depressed Market Status benefit. They also point out the incongruity of the Treasury Board position: the Depressed Market Status article is to be interpreted as though it is a sub-set of HEAP benefits, and thus the eligibility cap applies – and they are denied the benefit – although it does not actually say so, but when that same cap is retroactively removed, the implied connection is somehow severed – and they are once again denied the benefit. The Applicants submit that this analysis is unreasonable.

[44] I agree.

[45] The result of the Respondent's approach is that the Applicants are denied a benefit of significant financial importance because of this cap, which would remain in place solely for the purposes of Depressed Market Status benefits. On the Respondent's view of it, the RCMP and Treasury Board decided to eliminate the $300,000 cap because it was excluding too many members from the HEAP benefit, given the rise in housing prices generally. However, when the Treasury Board decided to make this retroactive for one year because it had taken so long to process the submission that resulted in the change, the decision was limited to the HEAP baseline benefit alone and excluded the Depressed Market Status benefit. The practical result of this interpretation is that the Applicants received the smaller retroactive HEAP benefit, but were excluded from the much larger Depressed Market Status benefit because of a decision that is not reflected in any official document in the record beyond the declarations in the decision letter and the affidavit of the Treasury Board official who made the decision.

[46] This is also unreasonable. If the decision letter accurately reflects the Treasury Board decision, there is no evidence that this was ever communicated to the RCMP or to its members in advance of the decision in this case. There is no other documentation to confirm that this is, indeed, what the Treasury Board decided. The official who made the decision simply declares it to be so.

[47] I would adopt the following passage from the decision in *Appleby-Ostroff v Canada (Attorney General)*, 2011 FCA 84, which also involved a Treasury Board policy that had been revoked and replaced. The Treasury Board argued that the former policy continued to apply to

the Appellant, although there was no information available to her or to the public to confirm that fact. The Court of Appeal found that to be unreasonable, and stated:

> [38] Transparency and accountability are important principles that apply to government actions, particularly where such actions affect individual rights. As recently noted by Binnie J., "[t]he transparency and accountability of government are issues of enormous public importance" (*R. v. National Post*, 2010 SCC 16, [2010] 1 S.C.R. 477 at para. 70). These principles are not promoted by allowing government officials to claim "secret" undisclosed exceptions to publicly available policies and rules affecting individual rights in the absence of clear statutory authority to do so.

[48] These words find echoes in the framework for analysis confirmed by the majority in *Vavilov*. They are apt here in regard to the retroactivity question.

[49] For the foregoing reasons, I find the Treasury Board decision to be unreasonable.

[50] Turning to the appropriate remedy, I note that in *Brauer 2014*, Justice Mosley found that the Treasury Board denial of the Depressed Market Status benefit was unreasonable because it was based on an analysis of the wrong housing market. Justice Mosley therefore quashed the decision and remitted the matter "with a direction that on reconsideration, the community to be considered for determination as to whether it was a depressed market area in 2010 is Bon Accord" (*Brauer 2014* at para 69). I note in passing that a subsequent challenge to the reconsideration decision was dismissed by this Court, because the denial had been based on a consideration of the evidence regarding the proper housing market (*Brauer v Canada (Attorney General)*, 2016 FC 124 [*Brauer 2016*]).

[51] In this case, I have found the Treasury Board interpretation of the IRP 2009 to be unreasonable. It is therefore appropriate to quash the decision and to send it back for

reconsideration. It is also appropriate to direct that upon reconsideration, the Treasury Board is to consider the Applicants' request for the Depressed Market Status benefit without consideration of the $300,000 cap that applies to the HEAP benefit.

[52] The Applicants noted the delay that has already occurred in the processing of their request, and asked for an order that the Respondent reconsider the matter within three months. The Respondent noted that the determination of Depressed Market Status is a matter of importance beyond the facts of the individual case, since other members who may have sold their homes at a loss in Fort McMurray during the relevant period may wish to apply for a similar benefit. The Respondent also noted that the determination requires the involvement of third party experts, since it cannot simply rely upon the assertion of the realtor set out in the Applicants' business case. In addition, this process will undoubtedly be delayed because of the public health restrictions currently in place to address the risk of COVID-19. For these reasons, the Respondent submitted that no deadline should be fixed by the Court.

[53] I agree with the Respondent. Although there was an unexplained delay in informing the Applicants of the Treasury Board decision, the delay has not been excessive. There is no reason to doubt that the Respondent will take the necessary steps to advance their file in a timely manner, and I note that when the *Brauer* matter was reconsidered, the Treasury Board did retain and rely on the opinion of an outside expert (see *Brauer 2016*). I also note that the decision to recognize Depressed Market Status rests with the Secretary of the Treasury Board, and so it will involve the necessary steps to place the matter before such a senior decision maker. Therefore, I will not fix an arbitrary deadline for the Treasury Board's reconsideration of the Applicants' request.

IV. Conclusion

[54] For these reasons, the application for judicial review is granted.

[55] The Treasury Board decision denying the Applicants' request for Depressed Market Status benefits is quashed and the matter is remitted to the Treasury Board for reconsideration, with a direction that the Treasury Board is to consider the Applicants' request for the Depressed Market Status benefit without consideration of the $300,000 cap that applied to the HEAP benefit.

[56] The parties agreed that costs should be in the cause, fixed at the amount of $2,500. In the circumstances, in exercise of my discretion under Rule 400 of the *Federal Courts Rules*, SOR 98/106, I find this to be a reasonable award of costs considering the nature of this matter and the Respondent is therefore ordered to pay costs to the Applicants in the lump sum amount of $2,500.

JUDGMENT in T-603-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. The Treasury Board decision dated September 3, 2019, denying the Applicants' request for Depressed Market Status benefits under article 3.10 of the RCMP 2009 Integrated Relocation Program is quashed.

3. The matter is remitted back to the Treasury Board for reconsideration, with a Direction that the Applicants' request is to be considered without reference to the $300,000 financial eligibility cap that applied to Home Equity Assistance Program benefits.

4. The Respondent shall pay to the Applicants costs in the lump sum amount of $2,500.00

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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